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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 22nd December, 1969:—

BILL No. XXX OF 1969

A Bill to provide for the prevention of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Prevention of Water Pollution Boards, for conferring on such Boards functions relating thereto and for matters connected therewith.

WHEREAS it is expedient to provide for the prevention of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Prevention of Water Pollution Boards and for conferring on such Boards functions relating thereto;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of Gujarat, Haryana, Jammu and Kashmir, Kerala and Mysore to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, application and commencement.

1. (1) This Act may be called the Prevention of Water Pollution Act, 1969.

(2) It applies in the first instance to the whole of the States of Gujarat, Haryana, Jammu and Kashmir, Kerala and Mysore and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(3) It shall come into force in the States of Gujarat, Haryana, Jammu and Kashmir, Kerala and Mysore and in the Union territories and in any other State which adopts this Act under clause (1) of article 252 of the Constitution on such date as the Central Government may by notification in the Official Gazette appoint, and different dates may be appointed for different provisions of this Act and for different States and Union territories.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Board" means the Central Board or a State Board;

(b) "Central Board" means the Central Prevention of Water Pollution Board constituted under section 3;

(c) "pollution" means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to animal life and health;

(*d*) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government.

(*e*) "sewage effluent" means effluent from any sewage disposal or sewage works;

(*f*) "State Board" means a State Prevention of Water Pollution Board constituted under section 4;

(*g*) "State Government" in relation to a Union territory means the Administrator thereof;

(*h*) "stream" includes any river, water-course or inland water (whether natural or artificial);

(*i*) "trade effluent" includes any liquid (either with or without particles of matter in suspension therein) which is discharged from any premises used for carrying on any trade or industry, other than domestic sewage;

(*j*) "water pollution prevention area" means any area defined as such by the State Government under section 16.

CHAPTER II

THE CENTRAL AND STATE PREVENTION OF WATER POLLUTION BOARDS

Constitution of Central Board.

3. (*1*) **The Central Government shall, with effect from such date as it may, by notification in the Official Gazette, appoint, constitute a Central Board to be called the Central Prevention of Water Pollution Board to carry out the functions assigned to that Board under this Act.**

(2) The Central Board shall consist of the following members, namely:—

(*a*) a chairman to be nominated by the Central Government;

(*b*) five officials to be nominated by the Central Government to represent that Government;

(*c*) such number of persons, not exceeding five, to be nominated by the Central Government, from amongst the members of the State Boards, referred to in clause (*c*) of sub-section (*2*) of section 4;

(*d*) three persons to be nominated by the Central Government to represent the interests of persons concerned with the carrying on of agriculture, fisheries or any industry or trade or any other interests which, in the opinion of the Central Government, ought to be represented;

(*e*) a member-secretary to be appointed by the Central Government.

(*3*) The Central Board shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by the aforesaid name, sue or be sued.

Constitution of State Boards.

4. (*1*) The State Government shall, with effect from such date as it may, by notification in the Official Gazette, appoint, constitute a State Board, under such name as may be specified in the notification, to carry out the functions assigned to that Board under this Act.

(*2*) A State Board shall consist of the following members, namely:—

(*a*) a chairman to be nominated by the State Government;

(*b*) five officials to be nominated by the State Government to represent that Government;

(*c*) five persons to be nominated by the State Government from amongst the members of the local authorities functioning within the State;

(*d*) three persons to be nominated by the State Government to represent the interests of persons concerned with the carrying on of agriculture, fisheries or any industry or trade or any other interests which, in the opinion of the State Government, ought to be represented;

(*e*) a member-secretary to be appointed by the State Government.

(*3*) Every State Board shall be a body corporate with the name specified by the State Government in the notification under sub-section (*1*), having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by the said name, sue or be sued.

(*4*) Notwithstanding anything contained in this section, no State Board shall be constituted for a Union territory and in relation to a Union territory, the Central Board shall exercise the powers and functions of a State Board for that Union territory:

Provided that in relation to any Union territory the Central Board may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.

Terms and conditions of service of members.

5. (*1*) Save as otherwise provided by or under this Act, a member of a Board, other than a member-secretary, shall hold office for a term of five years from the date of his nomination:

Provided that a member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(*2*) The term of office of a member of a Board nominated under clause (*b*) of sub-section (*2*) of section 3 or clause (*b*) of sub-section (*2*) of section 4 shall come to an end as soon as he ceases to be an officer of the Central Government or, as the case may be, of the State Government.

(*3*) The Central Government or, as the case may be, the State Government may, if it thinks fit, remove any member of a Board before the expiry of his term of office, after giving him a reasonable opportunity of showing cause against the same.

(*4*) A member of a Board, other than the member-secretary, may at any time resign his office by writing under his hand addressed—

(*a*) in the case of the chairman, to the Central Government or, as the case may be, the State Government; and

(*b*) in any other case, to the chairman of the Board,

and the seat of the chairman or such other member shall thereupon become vacant.

(*5*) A member of a Board, other than the member-secretary, shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Board, from three consecutive meetings of the Board, or where he is nominated under clause (*c*) of sub-section (*2*) of section 3 or under clause (*c*) of sub-section (*2*) of section 4, if he ceases to be a member of the State Board, or as the case may be, of the local authority.

(*6*) A casual vacancy in a Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated.

(*7*) A member of a Board shall be eligible for renomination.

(*8*) The other terms and conditions of service of a member of a Board, other than the member-secretary, shall be such as may be prescribed.

Disqualifications

6. No person shall be a member of a Board, who—

(*a*) is, or at any time has been adjudged, insolvent or has

suspended payment of his debts or has compounded with his creditors, or

(*b*) is of unsound mind and stands so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the Central Government or, as the case may be, of the State Government, involves moral turpitude.

Vacation of seats by members.

7. If a member of a Board becomes subject to any of the disqualifications specified in section 6, his seat shall become vacant.

Meetings of Board.

8. A Board shall meet not less than two times a year and at least once every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

Constitution of committees.

9. (*1*) A Board may constitute as many committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons, and for such purpose or purposes as it may think fit.

(*2*) A committee constituted under this section shall meet at such time and at such place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(*3*) The members of a committee (other than the members of the Board) shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the Board as may be prescribed.

Temporary association of persons with Board for particular purposes.

10. (*1*) A Board may associate with itself in such manner, and for such purposes, as may be prescribed any person whose assistance or advice it may desire in performing any of its functions under this Act.

(*2*) A person associated with the Board under sub-section (*1*) for any purpose shall have a right to take part in the discussions of the Board relevant to that purpose, but shall not have a right to vote at a meeting of the Board, and shall not be a member of the Board for any other purpose.

Vacancy in Board not to invalidate acts or proceedings

11. No act or proceedings of a Board or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board or the committee, as the case may be.

Member-secretary and officers and other employees of Board.

12. (*1*) The member-secretary of a Board may be either whole-time or part-time as the Central Government or, as the case may be, the State Government may think fit, and the other terms and conditions of his service shall be such as may be prescribed.

(*2*) The member-secretary shall exercise such powers and perform such duties as may be prescribed or as may, from time to time, be delegated to him by the Board or its chairman.

(*3*) Subject to such rules as may be made by the Central Government or, as the case may be, the State Government in this behalf, a Board may appoint such officers and employees as it considers necessary for the efficient performance of its functions.

CHAPTER III

POWERS AND FUNCTIONS OF BOARDS

Functions of Central Board.

13. (*1*) Subject to the provisions of this Act, the functions of the Central Board shall be to promote cleanliness of streams and wells in different areas of the States.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Central Board may perform all or any of the following functions, namely:—

(*a*) to advise the Central Government on any matter concerning the prevention of water pollution;

(*b*) to co-ordinate the activities of the State Boards and to resolve disputes among them;

(*c*) to provide technical assistance and guidance to the State Boards, to carry out special investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;

(*d*) to plan and organise the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of water pollution on such terms and conditions as the Central Board may specify;

(*e*) to collect, compile and publish the technical and statistical data relating to water pollution and the measures devised for its effective prevention, and also to prepare manuals, codes or guides relating to sewage and trade effluent;

(*f*) to advise, or render any service to, any local body or industrial undertaking in regard to treatment and disposal of sewage and trade effluent and charge such commission or fees therefor as may be agreed upon;

(*g*) to lay, in consultation with the State Governments concerned, the standards for the wholesomeness of water;

(*h*) to exercise such other functions as may be prescribed.

Functions of State Boards.

14. Subject to the provisions of this Act, the functions of a State Board shall be—

(*a*) to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof;

(*b*) to advise the State Government, local bodies or industrial undertakings on any matter concerning the prevention, control or abatement of water pollution and in particular to co-ordinate the activities of the local bodies or industrial undertakings and resolve disputes among them in respect thereof;

(*c*) to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof;

(*d*) to encourage, conduct and participate in investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;

(*e*) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of water pollution;

(*f*) to exercise such other functions as may be prescribed or as may from time to time, be entrusted to it by the Central Board or the State Government.

Power to give directions.

15. In the discharge of its functions under this Act—

(*a*) the Central Board shall be bound by such directions in writing as the Central Government may give to it; and

(*b*) every State Board shall be bound by such directions in writing as the Central Board or the State Government may give to it:

Provided that where a direction given by the State Government is inconsistent with the direction given by the Central Board the matter shall be referred to the Central Government for its decision.

CHAPTER IV

PREVENTION OF WATER POLLUTION

Water pollution prevention areas.

16. (*1*) The State Government may, after consultation with the State Board and by notification in the Official Gazette, define areas (hereinafter referred to as water pollution prevention areas) for the purposes of this Act.

(2) Each water pollution prevention area may be defined either by reference to a map or by reference to the line of any water-shed or the boundary of any district or partly by one method and partly by another.

(3) The State Government may, by notification in the Official Gazette,—

(a) alter any water pollution prevention area whether by way of extension or reduction; or

(b) define a new water pollution prevention area in which may be merged one or more water pollution prevention areas or any part or parts thereof.

Power to obtain information.

17. (1) For the purpose of enabling a State Board to perform the functions conferred on it by or under this Act, the State Board or any officer empowered by it in that behalf, may make surveys of any water pollution prevention area and gauge and keep records of the flow or volume and other characteristics of any stream or well in that area, and may take steps for the measurement and recording of the rainfall in that area or any part thereof and for the installation and maintenance for those purposes of gauges or other apparatus and works connected therewith, and may take such other steps as may be necessary in order to obtain any information required for the purposes aforesaid.

(2) A State Board may give directions requiring any person who in its opinion is abstracting water from any such stream or well in the area in quantities which are substantial in relation to the flow or volume of that stream or well or is discharging sewage or trade effluent into any such stream or well, to give such information as to the abstraction or the discharge at such times and in such form as may be specified in the directions.

Power to take samples of effluents and procedure to be followed in connection therewith.

18. (1) A State Board or any officer empowered by it in this behalf shall have power to take for the purpose of analysis samples of water from any stream or well or samples of any sewage or trade effluent which is passing from any plant or vessel or from or over any place into any such stream or well in a water pollution prevention area.

(2) The result of any analysis of a sample of any sewage or trade effluent taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3) and (4) are complied with.

(3) When a sample of any sewage or trade effluent is taken for analysis under sub-section (1), the person taking the sample shall,—

(a) serve on the person in charge of, or having control over, the plant or vessel or in occupation of the place (which person is hereinafter referred to as the occupier) or to any agent of such occupier, notice in writing then and there of his intention to have it so analysed;

(b) divide the sample into three parts in the presence of the occupier or such agent of the occupier;

(c) cause each part to be placed in a container which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent aforesaid;

(d) deliver one of the parts to the occupier or his agent aforesaid and retain another part for future comparison; and

(e) send the third part for analysis to the Government analyst by whatever designation he may be called.

(4) If the occupier or his agent refuses to accept the part of the sample delivered to him under clause (d) of sub-section (3), the person taking the sample shall inform the Government analyst in writing about such refusal and the Government analyst receiving the part sent to him under clause (e) of the said sub-section, shall sub-divide it into two parts and send one of the parts in a container (which shall be marked, sealed and signed by the Government analyst) along with his report of analysis to that person who shall retain it for production in case any legal proceedings are taken.

Power of entry and inspection

19. (1) Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right at all reasonable hours to enter, with such assistance as he considers necessary, any place—

(a) for the purpose of exercising any of the functions of the Board entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be exercised or whether any provision of this Act or the rules made thereunder or any notice, under, direction or authorisation served, made, given, or granted under this Act is being or has been complied with;

(c) for the purpose of examining any plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being committed and for seizing any such record, register, document or other material object, if he has reason to believe that it may fur-

nish evidence of the commission of an offence punishable under this Act or the rules made thereunder.

(2) The provisions of the Code of Criminal Procedure, 1898, or, in relation to the State of Jammu and Kashmir, the provisions of any corresponding law in force in that State, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code, or, as the case may be, under the corresponding provisions of the said law.

Explanation.—For the purposes of this section, "place" includes vessel.

20. (1) Subject to the provisions of this Act,— Prohibition on use of stream or well for disposal of polluting matter, etc.

(a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be prescribed to enter into any stream or well; or

(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely:—

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream:

(d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservior to enter into any stream;

(e) discharging water raised or drained from underground or a mine into a stream or well in the same condition in which it is raised or drained:

Provided that the State Board may by order direct that this clause shall not apply to discharge into any specified stream or well or part of a stream.

(3) Nothing contained in sub-section (1), shall apply to the discharge into a stream or well of any trade or sewage effluent if the State Board is satisfied that it is not reasonably practicable to dispose of the effluent otherwise than by discharging it into that or some other stream or well, and that all reasonably practicable steps have been taken to prevent the effluent being poisonous, noxious or polluting.

Restrictions on new outlets and new discharges.

21. (1) Subject to the provisions of this section, no person shall, without the consent of the State Board, bring into use any new or altered outlet for the discharge of trade or sewage effluent into a stream or well or begin to make any new discharge of trade or sewage effluent into a stream or well.

(2) An application for consent of the State Board under sub-section (1), shall be made in the prescribed form and shall contain particulars regarding the proposed construction, installation or operation of the industrial or commercial establishment or of any disposal system or of any extension or addition thereto and such other particulars as may be prescribed.

(3) The State Board may make such investigation in respect of the application for consent referred to in sub-section (1) and in making any such investigation shall follow such procedure as may be prescribed.

(4) The State Board may grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(a) in the case of a new or altered outlet, conditions as to the point of discharge into the stream or well or the construction of the outlet, or as to the use of that outlet or any other outlet for trade or sewage effluent from the same land or premises; and

(b) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the new discharge is to be made,

and any such conditions imposed shall be binding on any person using the outlet, or discharging the effluent from the land or premises aforesaid.

(5) Where, without the consent of the State Board, a new or altered outlet is brought into use for the discharge of trade or sewage effluent into a stream or well or a new discharge of trade or sewage

effluent is made, the State Board may serve on the person using the outlet or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect to such outlet or discharge.

(6) Every State Board shall maintain a register containing such particulars of the conditions imposed under this section in relation to outlets or in relation to effluent from land or premises in its jurisdiction and as are for the time being in force (other than the conditions to be satisfied before an outlet is brought into use or a new discharge is made) and so much of the register as relates to any outlet, or to any effluent from such land or premises shall be open to inspection at all reasonable hours by any person interested in the outlet, or in the land or premises, as the case may be, or by any person authorised by him in this behalf.

(7) The consent referred to in sub-section (1), shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of ninety days of making an application in this behalf to the State Board.

(8) For the purposes of this section—

(a) the expression "new or altered outlet" means any outlet which is wholly or partly constructed on or after the date on which this section comes into force or which (whether so constructed or not) is substantially altered after that date;

(b) the expression "new discharge" means a discharge which is not, as respects the nature and composition, temperature, volume and rate of discharge of the effluent, substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.

Refusal or withdrawal of consent by State Board.

22. (1) A State Board shall not grant its consent to the bringing into use of a new or altered outlet unless the outlet is so constructed as to comply with any conditions imposed by the Board to enable it to exercise its right to take samples of the effluent.

(2) A State Board may from time to time review any condition imposed under section 21 (other than a condition to be satisfied before an outlet is brought into use or a new discharge is made), and may serve on the person using the outlet or making the

discharge, as the case may be, a notice, making any reasonable variation of or revoking any such condition.

(3) Any condition imposed under section 21, shall be subject to any variation made under sub-section (2) and shall continue in force until revoked under that sub-section.

Appeals.

23. (1) Any person aggrieved by an order made under section 21 or section 22 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the State Government may think fit to constitute:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Every appellate authority shall consist of such number of persons, not exceeding five, as the State Government may think fit.

(3) The form and manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(5) If the appellate authority determines that the withholding of consent, or any condition imposed, or the variation of any condition, as the case may be, was unreasonable, then—

(a) where the appeal is in respect of the withholding of consent, such authority may direct that the consent shall be treated as given either unconditionally or subject to such conditions as appear to it to be reasonable;

(b) where the appeal is in respect of the unreasonableness of any condition imposed, such authority may direct either that the condition shall be treated as annulled or that there shall be substituted for it such condition as appears to it to be reasonable;

(c) where the appeal is in respect of the unreasonableness of any variation of a condition, such authority may direct either that the condition shall be treated as continuing in force unvaried or that it shall be varied in such manner as appears to it to be reasonable.

Control by State Government.

24. (*1*) The State Government may, at any time, either of its own motion or on application made to it in this behalf, call for the records of any case where an order has been passed by the State Board under section 21 or section 22 for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it may think fit:

Provided that the State Government shall not pass an order prejudicial to any person without affording such person a reasonable opportunity of being heard.

(*2*) The State Government shall not revise any order passed under section 21 or section 22 where an appeal against that order lies to the appellate authority, but has not been preferred and the time within which such appeal may be preferred has not expired, or where an appeal has been preferred and is pending before the appellate authority.

Power of State Board to carry out certain works.

25. (*1*) Where under this Act any conditions have been imposed on any person for bringing into use any new or altered outlet for the discharge of trade or sewage effluent into a stream or well or for making any new discharge of trade or sewage effluent into a stream or well and such conditions require such person to execute any work in connection with such new or altered outlet or for such new discharge and such work has not been executed within such time as may be specified in this behalf, the State Board may serve on the person concerned a notice requiring him within such time (not being less than thirty days) as may be specified in the notice to execute the work specified therein.

(*2*) If the person concerned fails to execute the work as required in the notice referred to in sub-section (*1*), then after the expiration of the time specified in the said notice, the State Board may itself execute such work.

(*3*) All expenses incurred by the State Board for the execution of the aforesaid work, together with interest, at such rate as the State Government may by order fix, from the date when a demand for the expenses is made until it is paid, may be recovered by that Board from the person concerned, as arrears of land revenue.

Emergency measures in case of pollution of stream or well.

26. (*1*) Where it appears to the State Board that any poisonous, noxious or polluting matter is present in any stream or well or has entered into that stream or well due to any accident or other unforeseen act or event, and if the Board is of opinion that it is necessary or expedient to take immediate action, it may, for reasons to be recorded in writing, carry out such operations as it may consider necessary for all or any of the following purposes, that is to say—

(*a*) removing that matter from the stream or well and disposing it of in such manner as the Board considers appropriate;

(*b*) remedying or mitigating any pollution caused by its presence in the stream or well;

(*c*) issuing orders immediately restraining or prohibiting discharge of any poisonous, noxious or polluting matter into the stream or well, or from making insanitary use of the stream or well.

(*2*) The power conferred by sub-section (*1*) does not include the power to construct any works other than works of a temporary character which are removed on or before the completion of the operations.

CHAPTER V

FUNDS, ACCOUNTS AND AUDIT

Contributions by Central Government.

27. The Central Government may, after due appropriation made by Parliament by law in this behalf, make in each financial year such contributions to the Central Board as it may think necessary to enable the Board to discharge its functions under this Act.

Contributions by State Government.

28. The State Government may, after due appropriation made by the Legislature of the State by law in this behalf, make in each financial year such contributions to the State Board as it may think necessary to enable that Board to discharge its functions under this Act.

Fund of Central Board.

29. (*1*) The Central Board shall have its own fund, and all sums which may, from time to time, be paid to it by the Central Government and all other receipts of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom.

(*2*) The Central Board may expend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of that Board.

Fund of State Board.

30. (*1*) The State Board shall have its own fund, and the sums which may, from time to time, be paid to it by the State Government and all other receipts of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom.

(*2*) The State Board may expend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of that Board.

Budget.

31. The Central Board or, as the case may be, the State Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, a budget in respect of the financial year

next ensuing showing the estimated receipt and expenditure, and copies thereof shall be forwarded to the Central Government or, as the case may be, the State Government.

Annual report.

32. (*1*) The Central Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous financial year and copies thereof shall be forwarded to the Central Government and that Government shall cause every such report to be laid before both Houses of Parliament.

(*2*) The State Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous financial year and copies thereof shall be forwarded to the State Government.

Accounts and audit.

33. (*1*) Every Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government or, as the case may be, the State Government.

(*2*) The accounts of the Board shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956.

of 1956.

(*3*) The said auditor shall be appointed by the Central Government or, as the case may be, the State Government on the advice of the Comptroller and Auditor General of India.

(*4*) Every auditor appointed to audit the accounts of the Board under this Act shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(*5*) Every such auditor shall send a copy of his report together with an audited copy of the accounts to the Central Government or, as the case may be, the State Government.

(*6*) The Central Government shall, as soon as may be after the receipt of the audit report under sub-section (5), cause the same to be laid before both Houses of Parliament.

CHAPTER VI

PENALTIES AND PROCEDURE

Failure to comply with directions under sub-section (2) of section 17.

34. Whoever fails to comply with any directions given under sub-section (2) of section 17 within such time as may be specified in the directions shall in respect of each such failure be punishable with fine which may extend to one thousand rupees and in case the failure continues, with an additional fine which may extend to one hundred rupees for every day during which such failure

continues after the conviction for the first such failure.

Penalty for certain acts.

35. Whoever—

(*a*) destroys, pulls down, injures or defaces any notice or other matter put up, inscribed or placed by or under the authority of the Board, or

(*b*) obstructs any person acting under the orders or directions of the Board in setting out the lines of any works, or pulls up or removes any pillar, post or stake fixed in the ground for the purpose of setting out the lines of such works, or defaces or destroys any works executed for the aforesaid purposes, or

(*c*) damages any works or property belonging to the Board, or

(*d*) fails to furnish to any officer or other employee of the Board any information required by him for the purpose of this Act,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for contravention of provisions of section 20.

36. Whoever contravenes the provisions of sub-section (*1*) of section 20 shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Penalty for contravention of provisions of section 21.

37. Whoever contravenes the provisions of section 21, either by failure to obtain the consent referred to therein or by violation of the conditions imposed thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Enhanced penalty after previous conviction.

38. If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to one year and with fine which may extend to two thousand rupees:

Provided that for the purpose of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

Offences by companies.

39. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate, and includes a firm or other association of individuals; and

(*b*) "director" in relation to a firm means a partner in the firm.

Cognizance of offences

40. No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of the State Board, and no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

CHAPTER VII

MISCELLANEOUS

Central Water Laboratory.

41. (*1*) The Central Government may, by notification in the Official Gazette,—

(*a*) establish a Central Water Laboratory; or

(*b*) specify any laboratory or institute as a Central Water Laboratory, to carry out the functions entrusted to the Central Water Laboratory under this Act.

(2) The Central Government may, after consultation with the Central Board, make rules prescribing—

(a) the functions of the Central Water Laboratory;

(b) the procedure for the submission to the said laboratory of samples of water or of sewage or trade effluent for analysis or tests, the form of the laboratory's report thereunder and the fees payable in respect of such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

State Water Laboratory.

42. (1) The State Government may, by notification in the Official Gazette,—

(a) establish a State Water Laboratory; or

(b) specify any laboratory or institute as a State Water Laboratory, to carry out the functions entrusted to the State Water Laboratory under this Act.

(2) The State Government may, after consultation with the State Board, make rules prescribing—

(a) the functions of the State Water Laboratory;

(b) the procedure for the submission to the said Laboratory of samples of water or of sewage or trade effluent for analysis or tests, the form of the laboratory's report thereon and the fees payable in respect of such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

Government analyst.

43. The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications to be Government analysts for such water pollution prevention areas as may be assigned to them by the State Government.

Report of Government analyst.

44. (1) The Government analyst shall deliver, in such form as may be prescribed, a report to the concerned Board or to the person taking any sample under section 18 of the result of the analysis of such sample sent to him for analysis.

(2) Subject to the provisions of section 18, any document purporting to be a report signed by a Government analyst may be used as evidence of the facts stated therein in any proceeding under this Act.

Local Authorities to Assist.

45. All local authorities shall render such help and assistance and furnish such information to the Board as it may require for the discharge of its functions, and shall make available to the Board for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of its functions.

Returns and reports.

46. The Central Board shall furnish to the Central Government, and a State Board shall furnish to the State Government and to the Central Board, such reports, returns, statistics, accounts and other information with respect to its fund or activities as that Government, or as the case may be, the Central Board may, from time to time, require.

Protection of action taken in good faith

47. No suit or other legal proceedings shall lie against any member or officer of a Board in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

Overriding effect.

48. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

Power of Central Government to make rules.

49. (*1*) The Central Government may, subject to the condition of previous publication, make rules in respect of the matters specified in sub-section (*2*):

Provided that when the Central Board has been constituted, no such rule shall be made without consulting that Board.

(*2*) The matters in respect of which the Central Government may make rules, shall relate to all or any of the following:—

(*a*) the terms and conditions of service of the members of the Central Board;

(*b*) the intervals and the time and place at which meetings of the Central Board or of any committee thereof constituted under this Act, shall be held and the procedure to be followed at such meetings, including the quorum necessary for the transaction of business;

(*c*) the fees and allowances to be paid to such members of a committee of the Central Board as are not members of the Board;

(*d*) the manner in which and the purposes for which persons may be associated with a Board under sub-section (*1*) of section 10;

(*e*) the terms and conditions of service of the member-secretary of the Central Board;

(*f*) the powers and duties to be exercised and performed by the chairman and the member-secretary of the Central Board;

(*g*) the standards for the purpose of determining which matter is to be treated as poisonous, noxious or polluting for the purposes of section 20;

(*h*) the prohibition or regulation of bathing in any stream or well or the washing or cleansing therein of things of any class or description, or the putting of litter or other objectionable matter, whether poisonous, noxious or polluting or not into any stream or well;

(*i*) the prohibition or regulation of the keeping or use, on any stream, of vessels provided with sanitary appliances from which polluting matter passes into the stream;

(*j*) the form in which, and the time within which, the budget and annual report of the Central Board may be prepared and forwarded to the Central Government;

(*k*) the form in which the accounts of the Central Board may be maintained;

(*l*) the form of the report of the Government analyst referred to in sub-section (*1*) of section 44;

(*m*) any other matter relating to the Central Board, including the powers and functions of that Board in relation to Union territories;

(*n*) any other matttr which has to be, or may be, prescribed.

(*2*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules.

50. (*1*) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act in respect of matters not falling within the purview of section 49:

Provided that when the State Board has been established, no such rule shall be made without consulting that Board.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the terms and conditions of service of the members of the State Board;

(*b*) the time and place of meetings of the State Board or of any committee of that Board constituted under this Act and the procedure to be followed at such meetings, including the quorum necessary for the transaction of business;

(*c*) the fees and allowances to be paid to such members of a committee of the State Board as are not members of the Board;

(*d*) the manner in which and the purposes for which persons may be associated with a Board under sub-section (*1*) of section 10;

(*e*) the terms and conditions of service of the member-secretary of the State Board;

(*f*) the powers and duties to be exercised and performed by the chairman and the member-secretary of the State Board;

(*g*) the form of application for the consent of the State Board under sub-section (*2*) of section 21, and the particulars it may contain;

(*h*) the manner in which investigation may be made in respect of an application for obtaining consent of the State Board and the matters to be taken into account in according or refusing such consent;

(*i*) the form and manner (including fees payable therefor) in which appeals may be filed under section 23, and the procedure to be followed by the appellate authority in disposing of the appeals;

(*j*) the form in which, and the time within which, the budget and annual report of the State Board may be prepared and forwarded to the State Government;

(*k*) the form in which the accounts of the State Board may be maintained;

(*l*) the form of the report of the Government analyst referred to in sub-section (*1*) of section 44;

(*m*) any other matter which has to be, or may be, prescribed.

STATEMENT OF OBJECTS AND REASONS

The problem of pollution of rivers and streams has assumed considerable importance and urgency in recent years as a result of the growth of industries and the increasing tendency to urbanization. It is, therefore, essential to ensure that the domestic and industrial effluents are not allowed to be discharged into the water courses without adequate treatment as such discharges would render the water unsuitable as source of drinking water as well as for supporting fish life and for use in irrigation. Pollution of rivers and streams also causes increasing damage to the country's economy.

2. A Committee was set up in 1962 to draw a draft enactment for the prevention of water pollution. The report of the Committee was circulated to the State Governments and was also considered by the Central Council of Local Self-Government in September, 1963. This Council resolved that a single law regarding measures to deal with water pollution control, both at the Centre and at the State levels, may be enacted by the Union Parliament. A draft Bill was accordingly prepared and put up for consideration at a joint session of the Central Council of Local Self-Government and the Fifth Conference of the State Ministers of Town and Country Planning held in 1965. In pursuance of the decision of the joint session, the draft Bill was considered subsequently in detail by a Committee of Ministers of Local Self-Government from the States of Bihar, Madras, Maharashtra, Rajasthan, Haryana and West Bengal.

3. Having considered the relevant local provisions existing in the country and recommendations of the aforesaid Committees, the Government came to the conclusion that the existing local provisions are neither adequate nor satisfactory. There is, therefore, an urgent need for introducing a comprehensive legislation which would establish unitary agencies in the Centre and States to provide for the prevention, abatement and control of pollution of rivers and streams, for maintaining or restoring wholesomeness of such water courses and for controlling the existing and new discharges of domestic and industrial wastes.

4. The Bill follows the recommendations of the aforesaid Committees and seeks to—

(i) establish at the Centre as well as in the States water

pollution prevention Boards with the necessary complement of technical and administrative staff and to confer on them such powers as are necessary to deal effectively with the problem of water pollution in the country;

(*ii*) provide penalties for contravention of the provisions of the Act; and

(*iii*) establish Central and State water testing laboratories to enable the Boards to assess the extent of pollution, lay down standards and establish guilt or default.

5. Legislation in respect of the aforesaid subject matter is relatable to entry 17 read with entry 6 of List II in the Seventh Schedule to the Constitution and Parliament has no power to make a law in the States (apart from the provisions of articles 249 and 250 of the Constitution) unless the legislatures of two or more States pass a resolution in pursuance of article 252 of the Constitution empowering Parliament to pass the necessary legislation on the subject. The legislatures of the States of Gujarat, Jammu and Kashmir, Kerala, Haryana and Mysore have passed such resolutions. The Bill is intended to give effect to the resolutions passed by the legislatures of the aforesaid States.

NEW DELHI;
The 13th September, 1969.

B. S. MURTHY.

2869 G of I E.G.

Notes on clauses

Clause 1.—This clause provides for bringing the Act into force in the States of Gujarat, Jammu and Kashmir, Kerala, Haryana and Mysore which have already passed resolutions under article 252 of the Constitution and in the Union territories and also in any other State which may adopt this Act by a resolution as aforesaid.

Clause 2.—This clause seeks to define certain expressions used in the Act.

Clause 3.—This clause provides for the constitution of a Central Board to be called the Central Prevention of Water Pollution Board which shall be a body Corporate consisting of persons nominated by the Central Government, as specified in sub-clause (2), of a chairman, a member-secretary, five officials of the Central Government, persons (not exceeding five) from amongst the members of the State Boards referred to in clause 4 and three persons to represent the interests of persons engaged in agriculture, fisheries or any industry or trade or any other interest deemed necessary by the Central Government.

Clause 4.—This clause provides for the constitution of State Boards consisting of persons nominated by the State Governments as specified in sub-clause (2). This clause also provides that in relation to a Union territory, the Central Board shall exercise the powers and functions of a State Board for that Union territory.

Clauses 5 to 8.—Clauses 5 to 8 seek to lay down the terms and conditions of service of the members of the Board, disqualification for membership and vacancy arising therefrom and meetings of the Board.

Clause 9.—This clause provides for the constitution of committees, the procedure for transaction of business in such committees and for payment of fees and allowances to the members of the committees.

Clause 10.—This clause provides for the temporary association of persons with a Board for purposes of advice or assistance.

Clause 11.—This clause is self-explanatory.

Clause 12.—This clause deals with the terms and conditions of

service of the member-secretary and other officers and employees of a Board.

Clause 13.—This clause deals with the functions of the Central Board which *inter alia* relate to advising the Central Government on matters concerning prevention of water pollution, co-ordinating the activities of the State Boards and resolving disputes among them and providing technical assistance and guidance to State Boards.

Clause 14.—This clause deals with the functions of the State Boards which are as under:

(*i*) to plan a comprehensive programme for the prevention control or abatement of pollution of streams and wells;

(*ii*) to advise the State Government, local bodies or industrial undertakings on any matter concerning the prevention of water pollution;

(*iii*) to collect and disseminate information relating to water pollution control and to encourage research programmes;

(*iv*) to collaborate with the Central Board in organising and training of technical personnel.

Clause 15.—This clause deals with power to give directions to the Central Board and the State Boards.

Clause 16.—This clause empowers the State Governments to define certain areas as water pollution prevention areas and to do certain other acts in relation thereto.

Clause 17.—This clause empowers the State Boards and officers empowered in this behalf to obtain information relating to water pollution prevention areas.

Clause 18.—This clause empowers the Board or any officer authorised by the Board to take samples from any stream or of sewage or of trade effluent which is passing from any place for purposes of analysis. The clause also lays down the procedure to be followed while taking such samples for analysis.

Clause 19.—This clause empowers persons authorised by a State Board in this behalf to enter and inspect any place for the purpose of exercising the functions of the Board and for determining as to whether the provisions of this Act or rules framed thereunder have been complied with; they have also been empowered to enter any place for the purpose of examining any plant, record, register, document or other material object and to seize any such record, register, document or other material object, if there is any reason to

believe that an offence under this Act or rules thereunder has been committed.

Clause 20.—This clause seeks to prohibit the use of stream or well for the disposal of polluting matter. It also prohibits the disposal into any stream or well of any waste which may tend either directly or in combination with other matters to impede the regular flow of water in a manner likely to lead to aggravation of pollution in a water pollution prevention area.

Clause 21.—This clause lays down that no person shall bring into use any new or altered outlet for the discharge of trade or sewage effluent or wastes into a stream or well without the consent of the State Board. It also lays down that no new discharge of trade or sewage effluent shall be let into any stream or river without the consent of the State Board. The State Board may grant its consent in this behalf subject to such conditions as it may impose.

Clause 22.—This clause empowers the State Board to review any condition imposed by the Board under clause 21 from time to time and to vary or revoke any condition after giving notice to the person concerned.

Clause 23.—This clause provides for an appeal against the orders passed by the State Board under clause 21 or clause 22. This clause also provides for the constitution of the appellate authority.

Clause 24.—This clause empowers the State Government, either of its own motion or on application made to it in this behalf, to call for the records of any case where an order has been passed by the State Board under clause 21 or clause 22 for the purpose of satisfying itself as to the legality or propriety of any such order and to pass such orders as the State Government may deem fit.

Clause 25.—This cluase empowers the State Board to carry out any work connected with the prevention of water pollution where the person who has been duly served with a notice to execute such works specified therein, fails to comply with the notice within the specified time mentioned in the notice. It also empowers the Board to recover the expenses incurred by it together with the interest for the execution of the aforesaid works from the person concerned as arrears of land revenue.

Clause 26.—This clause empowers the State Board to carry out certain operations where it appears to the Board that immediate action is necessary to meet the situation created by the presence of any poisonous, noxious or polluting matter in any stream or well.

Clauses 27 *to* 33.—These clauses contain the usual provisions relating to funds, amounts and audit of the Central Board and the State Boards.

Clauses 34 *to* 40.—These clauses provide for penalties in respect of offences committed under this Act. Clause 38 provides for enhancement of penalty in case of conviction for the same offence on a subsequent occasions. It has been provided in section 40 that no court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction of, the State Board.

Clause 41.—This clause provides for the establishment of a Central Water Laboratory. It also provides for specifying any Laboratory or institute as a Central Water Laboratory to carry out the functions entrusted to the Central Water Laboratory under this Act. The clause also empowers the Central Government to make rules to provide for the functions of the Laboratory and other matters.

Clause 42.—This clause provides for the establishment of a State Water Laboratory. It also provides for specifying any laboratory or institute as a State Water Laboratory to carry out the functions entrusted to the State Water Laboratory under this Act. The clause also empowers the State Government to make rules to provide for the functions of the Laboratory and other matters.

Clause 43.—This clause provides for the appointment of Government analysts.

Clause 44.—This clause provides for the reports of the Government analysts being used as evidence in any proceeding under this Act.

Clause 45.—This clause provides that all local authorities shall render such help and assistance and furnish such information to the Board as the Board may require for the discharge of its functions.

Clause 46.—This clause prescribes that the Central Board and the State Boards shall furnish to the Central Government and the State Governments respectively such reports, returns, statistics, accounts and other information with respect to their funds or activities as may be called for by the respective Governments.

Clause 47.—This clause seeks to give protection to any member or officer of a Board in respect of actions done or intended to be done in good faith in pursuance of this Act or the rules thereunder.

Clause 48.—This clause provides that the provisions of this Act shall have overriding effect in case of inconsistency with any other enactment.

Clauses 49 *and* 50.—These two clauses empower the Central Government and the State Governments respectively to make rules in consultation with the Central Board or, as the case may be, the State Board.

FINANCIAL MEMORANDUM

The scheme of this Bill centres round the effective prevention of water pollution in the country. The establishment of a Central Prevention of Water Pollution Board and a Central Water Laboratory has been proposed. Whereas the major work of enforcement of the provisions of the proposed Bill will have to be undertaken by the State Governments, the Central Government will, *inter alia*, have to carry out the following functions:—

(i) Under clause 3(1), the Central Prevention of Water Pollution Board will have to be constituted to carry out functions to be assigned to it under this Act.

(ii) Under clause 4(4), the Central Prevention of Water Pollution Board shall exercise the powers of a State Prevention of Water Pollution Board in relation to Union territories, including the carrying out of certain works such as restraining or prohibiting discharge of any harmful, poisonous or toxic wastes into a stream or well or from making insanitary use of the stream or well which functions, during an emergency, are to be carried out in respect of States by the State Prevention of Water Pollution Boards under clause 26.

(iii) Under clause 9(1), the Central Prevention of Water Pollution Board may constitute as many Committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons, and for such purpose or purposes as it may think fit.

(iv) Under clause 9 (3), fees and allowances shall have to be paid to the members of a Committee (other than the members of the Board) for attending its meetings and for attending to any other work of the Board as may be prescribed.

(v) Under clause 12(3), the Central Prevention of Water Pollution Board may appoint such officers and employees as it considers necessary for the efficient performance of its functions.

(vi) Under clause 27, necessary contributions have to be made to the Central Prevention of Water Pollution Board to enable the Board to discharge its functions under this Act.

(vii) Under clause 41(1), the Central Government may establish a Central Water Laboratory to carry out the functions assigned to it under the Act or any rules made thereunder.

2. The actual expenditure which the Central Government would be required to incur for implementing the provisions of this Bill cannot be correctly estimated, but it is likely to be about Rs. 1.52 lakhs recurring per year. No non-recurring expenditure is anticipated at present, except the expenditure on works required to be executed during an emergency under clause 26 in any Union territory in respect of which the Central Prevention of Water Pollution Board would be required to exercise the powers and functions of the State Prevention of Water Pollution Board. The expenditure likely to be incurred in this behalf is dependent on very many uncertain factors and it may not be possible to give a correct estimate at this stage; however, such expenditure is not likely to exceed rupees one lakh non-recurring. The above apart, if and when a Central Water Laboratory is established, an additional expenditure, both recurring and non-recurring, an estimate of which is not possible to visualise at this stage, may have to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 49 of the Bill empowers the Central Government, after consultation with the Central Prevention of Water Pollution Board and subject to the condition of previous publication, to make rules for the purpose of giving effect to the provisions of this Act in respect of matters falling within the purview of this clause.

Likewise, clause 50 empowers the State Government to make rules not inconsistent with the rules made by the Central Government in this behalf.

These matters pertain to procedure, form or administrative detail and as such, the delegation of legislative power is of a normal character.

BILL NO. XXXII OF 1969

A Bill to continue the Essential Commodities (Amendment) Act, 1964 for a further period.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Essential Commodities (Amendment) Continuance Act, 1969.

Continuance of Act 47 of 1964.

2. The duration of the Essential Commodities (Amendment) Act, 1964, is further extended for the period up to and including the 31st day of December, 1971, and accordingly that Act shall have effect subject to the modification that in section 1 of that Act, in sub-section (3), for the words, figures and letters "the 31st day of December, 1969", the words, figures and letters "the 31st day of December, 1971" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Essential Commodities (Amendment) Act, 1964 inserted section 12A in the Essential Commodities Act, 1955. This section provides that the Central Government may, in the interests of production, supply or distribution of any essential commodity and other relevant considerations, by notification in the Official Gazette, specify an order made under section 3 of the Act to be a special order and when such a notification is issued, the contravention of the said order can be tried summarily. The aforesaid Act of 1964 also inserted section 8A in the Criminal Law Amendment Act, 1952 which empowers the special judge trying an offence specified under sub-section (1) of section 6 of the Criminal Law Amendment Act, 1952 alleged to have been committed by a public servant in relation to the contravention of any special order as notified under section 12A of the Essential Commodities Act, 1955 to try the offence in a summary way.

2. The period of operation of the Essential Commodities (Amendment) Act, 1964 was originally up to 31st December, 1966, but was extended up to 31st December, 1969 by the Essential Commodities (Second Amendment) Act, 1967.

3. Having regard to the supply position of a number of essential commodities continuing to be subject to spasmodic shortage, thereby making it necessary for the Central and State Governments to retain the provisions of the Act enabling courts to try summarily contravention of the special orders aforesaid, it has been considered, in consultation with the State Governments and Ministries of the Government of India, that the operation of the provisions of section 12A of the Essential Commodities Act, 1955 and section 8A of the Criminal Law Amendment Act, 1952 should continue to operate for a further period of two years from 31st December, 1969.

4. The Bill seeks to achieve the above object.

NEW DELHI;
The 17th December, 1969. FAKHRUDDIN ALI AHMED

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to extend the duration of the Essential Commodities (Amendment) Act, 1964. Under section 2 of the Essential Commodities (Amendment) Act, 1964, a new section 12A has been inserted in the principal Act and under sub-section (1) of that section the Central Government is empowered to specify, by notification in the Official Gazette, any order made under section 3 of the principal Act to be a special order for purposes of summary trial. The notification is to be issued only if the Central Government is of opinion that in the interests of production, supply or distribution of any essential commodity or trade or commerce therein and other relevant considerations, it is necessary that a contravention of any order made under section 3 of the principal Act in relation to such essential commodity should be tried summarily. It is not possible to specify the orders, the contravention of which should be tried summarily, in the Act itself. It will depend upon the circumstances of each case. It has, however, been laid down in sub-section (1) of section 12A that every notification issued under that sub-section shall be laid before both Houses of Parliament. The delegation of legislative power conferred on the Central Government under sub-section (1) of section 12A is of a normal character.

B. N. BANERJEE,
Secretary.

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